

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ADOBE SYSTEMS INCORPORATED,  
Plaintiff,

v.

LA BOUTIQUE DU SOFTWARETECH  
INC., a Canadian Corporation doing business  
as SOFTWARE TECH and SOFTWARE  
TECH STORE; FUTUR-SOFT  
SOLUTIONS CORPORATION, a New  
York Corporation; PIERRE FRANCIS, an  
Individual; and DOES 3-10, Inclusive,  
Defendants.

Case No. 5:14-cv-02140-RMW (HRL)

**ORDER RE PLAINTIFF'S REQUEST  
FOR ATTORNEY'S FEES**

In a prior discovery order, this court agreed that plaintiff Adobe Systems, Incorporated (Adobe) is entitled to an award of attorney's fees as a sanction for defendants' failure to appear for their depositions. (Dkt. 95). Adobe was directed to file supplemental papers supporting the claimed sum of \$3,326.25.

In response to that order, Adobe's lead counsel, Christopher Q. Pham, submitted his declaration (along with several appended exhibits), describing the work that he and two associates at his firm performed in connection with defendants' depositions. (Dkt. 96). Pham advises that, due to a decision to leave a particular charge off of the firm's invoices to Adobe, the amount of the requested fees has been revised downward to \$3,288.75.

1 Although the corporate defendants were (and remain) unrepresented, defendant Francis  
2 was given an opportunity to file a response to Adobe's supplemental filing. The October 30, 2015  
3 filing deadline has long since passed, and this court has received no response from Francis. As  
4 stated in the prior discovery order, if no response was received from him by the deadline, then the  
5 matter would be deemed submitted without further briefing or hearing, unless otherwise ordered.

6 Having reviewed Pham's declaration and supporting papers, this court finds that no further  
7 proceedings are necessary for the resolution of this matter. For the reasons discussed below, this  
8 court now awards Adobe its fees in the amount of \$3,288.75.

9 In assessing the reasonableness of Adobe's requested fees, this court follows the lodestar  
10 approach, which requires the determination of the number of hours reasonably expended in  
11 litigation multiplied by a reasonable hourly rate. Hensley v. Eckerhart, 461 U.S. 424, 433, 103 S.  
12 Ct. 1933, 76 L.Ed.2d 40 (1983), abrogated on other grounds by Tex. State Teachers Ass'n. v.  
13 Garland Indep. Sch. Dist., 489 U.S. 782, 109 S.Ct. 1486, 103 L.Ed.2d 866 (1989). In making this  
14 determination, this court is "guided by the rate prevailing in the community for similar work  
15 performed by attorneys of comparable skill, experience, and reputation." Chalmers v. City of Los  
16 Angeles, 796 F.2d 1205, 1210-11 (9th Cir. 1986), reh'g denied, amended on other grounds, 808  
17 F.2d 1373 (9th Cir. 1987) (citing Blum v. Stenson, 465 U.S. 886, 895 n.11, 104 S. Ct. 1541, 79  
18 L.Ed.2d 891 (1984)).

19 Here, each of the identified attorneys has approximately six to fifteen years of experience,  
20 primarily in intellectual property matters. (Pham Decl., ¶¶ 4, 12). Each attorney billed at a rate of  
21 \$375 per hour. (Id. ¶ 12). Based on this court's familiarity with the range of rates customarily  
22 charged by attorneys practicing before it, the stated hourly rate appears to be in line (if not below)  
23 prevailing rates for similar services by lawyers of reasonably comparable skill, experience and  
24 reputation. See Ingram v. Oroudjian, 647 F.3d 925, 928 (9th Cir. 2011) (agreeing that "judges are  
25 justified in relying on their own knowledge of customary rates and their experience concerning  
26 reasonable and proper fees."); see also Minichino v. First California Realty, No. C11-5185 EMC,  
27 2012 WL 6554401 at \*7 (N.D. Cal., Dec. 14, 2012) (relying on the court's own experience in  
28 evaluating a fee request). Additionally, Adobe has submitted sufficient documentation of the

1 hours claimed. (Pham Decl. ¶ 8, Ex. C). Having reviewed those records, this court finds that the  
2 claimed hours were necessary and were reasonably incurred and that none of the claimed time is  
3 duplicative or excessive.

4 Accordingly, this court awards Adobe \$3,288.75 in fees incurred in pursuing defendants'  
5 depositions. Defendants shall pay that sum to Adobe by **December 11, 2015**.

6 SO ORDERED.

7 Dated: November 24, 2015

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9 HOWARD R. LLOYD  
United States Magistrate Judge

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United States District Court  
Northern District of California

5:14-cv-02140-RMW Notice has been electronically mailed to:

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5:14-cv-02140-RMW Notice sent by U.S. Mail to:

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